

Porter's secret state: how the attorney-general leads the government's war against accountability

As attorney-general, Porter has pursued secrecy in all its forms. Crikey runs through some of the lowlights.

[Georgia Wilkins](#) and [David Hardaker](#) – Crikey Newsletter - 12 November 2020

https://www.crikey.com.au/2020/11/12/christian-porter-accountability/?utm_campaign=Daily&utm_medium=email&utm_source=newsletter

It's no surprise that Christian Porter has threatened to haul in the lawyers to fight the allegations aired on Monday night's *Four Corners* program about his public behaviour with a young female Liberal staffer.

Threatening legal action acts as a deterrent to others who might publish more, and it's very much in character for a politician with a reputation for seeing transparency and accountability as the enemy.

As attorney-general, Porter has pursued secrecy in all its forms; from appointing political friends to government agencies, to introducing rules that allow him to personally sign off on the prosecution of journalists.

It's a reputation that stands in stark contrast to the demands of his profession. "Publicity is the soul of justice," as Porter's opponent in the Witness K case, lawyer Bernard Collaery, has noted.

But if there's one other theme that symbolises Porter's time as Australia's senior law officer, it's that there's one rule for Porter and his colleagues, and another for everyone else.

Integrity commission

With the government's bungled integrity commission proposal, Porter has managed a remarkable feat: serving up a transparency body that will actually make the government less transparent and, lawyers say, potentially more corrupt.

Secrecy is at the core of Porter's proposed commission: from the referral to investigate an issue to the commissioner's opinion as to the existence of corruption. Porter has done this in the name of protecting reputations. The union representing Australian Federal Police officers has said it amounts to a protection racket for government MPs.

Journalist prosecutions

Last year Porter gave himself the power to decide if and when a journalist will be prosecuted for reporting government secrets. While [the directive](#) was described as a "safeguard", it allows Porter — a politician — to authorise prosecutions of journalists in situations where they may have been critical of his own government.

Witness to a dodgy call

Porter was called in by Scott Morrison to "witness" a call the prime minister made late last year to the NSW police commissioner to discuss a NSW police investigation into Angus Taylor's attack on Sydney Lord Mayor Clover Moore using false figures.

Porter took no advice on whether or not he, as attorney-general, should have been party to Morrison's call, a call which Malcolm Turnbull among others considered to be improper. No full account of the call has been given.

Collaery trial

Porter has used his national security powers to prosecute Collaery and his client, Witness K, a former intelligence officer turned whistleblower, for their role in exposing Australia's bugging of East Timor in 2004. Collaery is being forced to have part of his trial held in secret, and the details of the case against him cannot be reported.

Secret prisoner

Porter oversaw the secret prosecution and imprisonment of "Witness J", a [mystery man](#) who was jailed for 15 months and was only discovered when he tried to write a memoir from jail. Not only have the charges and findings been kept secret, but orders covering non-disclosure have not been disclosed.

The Administrative Appeals Tribunal

As attorney-general, Porter has continued to make appointments to the AAT without any open process. Shortly before the 2019 election, Porter announced 86 appointments and reappointments to well-paid roles at the tribunal, including ex-Liberal MPs and former staffers, among them one of Porter's own advisers who was given a seven-year, full-time AAT position paying up to \$245,000 a year.

Robodebt

As social services minister in 2017, Porter refused to apologise for Centrelink's automated debt recovery system in the face of a Senate inquiry which found robodebt had caused trauma, stress and shame to Australia's most vulnerable.

AAT member Terry Carney rebuked the government five times about the program on the grounds it was not legal (Carney lost his job). It was later revealed the government had received legal advice that the scheme was illegal — though the date of the advice has not been made public.

Sports rorts

Morrison asked Porter for advice about the legal issues raised in the "sports rorts" saga, and claimed Porter had dismissed concerns raised by a scathing auditor-general's report as "not correct". But the basis for this advice has [never been released](#).

National security reports

Porter has [reportedly](#) failed to table crucial reports relating to his use of secretive national security information (NSI) orders. These reports, ironically, provide the only insight into how the government is using its security powers to suppress information in cases like the Collaery trial and the secret imprisonment of Witness J.